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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/626,813	07/23/2003	Eric Miller	2443(16486)	2540

33272 7590 12/22/2006
SPRINT COMMUNICATIONS COMPANY L.P.
6391 SPRINT PARKWAY
MAILSTOP: KSOPHT0101-Z2100
OVERLAND PARK, KS 66251-2100

EXAMINER

NGUYEN, MINH DIEU T

ART UNIT	PAPER NUMBER
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2137

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	12/22/2006	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/626,813

Applicant(s)

MILLER, ERIC

Examiner

Minh Dieu Nguyen

Art Unit

2137

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 July 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) 8-12 and 17-21 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7 and 13-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>7/23/03</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 1-7 and 13-16, drawn to a method and software for initiating delivery of a digital rights management (DRM) encoded content item over a digital network between a client and a target server, classified in class 705, subclass 59.
 - II. Claims 8-12 and 17-21, drawn to a method and software for serving digital rights management from a target server, classified in class 726, subclass 26.

The inventions are distinct, each from the other because of the following reasons:

2. Inventions I and II are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct if they do not overlap in scope and are not obvious variants, and if it is shown that at least one subcombination is separately usable. In the instant case, subcombination I has separate utility such as client selecting a supported DRM method (indicated by server) and client obtaining a DRM license using the network address listed for the selected DRM method, while subcombination II has separate utility, not required by subcombination I such as target server including a plurality of ports and server indicating a port for (client) accessing each supported DRM method. See MPEP § 806.05(d).

The examiner has required restriction between subcombinations usable together. Where applicant elects a subcombination and claims thereto are subsequently found

Art Unit: 2137

allowable, any claim(s) depending from or otherwise requiring all the limitations of the allowable subcombination will be examined for patentability in accordance with 37 CFR 1.104. See MPEP § 821.04(a). Applicant is advised that if any claim presented in a continuation or divisional application is anticipated by, or includes all the limitations of, a claim that is allowable in the present application, such claim may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application.

3. Because these inventions are independent or distinct for the reasons given above and there would be a serious burden on the examiner if restriction is not required because the inventions have acquired a separate status in the art in view of their different classification, restriction for examination purposes as indicated is proper.

4. Because these inventions are independent or distinct for the reasons given above and there would be a serious burden on the examiner if restriction is not required because the inventions require a different field of search (see MPEP § 808.02), restriction for examination purposes as indicated is proper.

5. During a telephone conversation with Mark Mollon on 12/19/06 a provisional election was made with traverse to prosecute the invention of I, claims 1-7 and 13-16. Affirmation of this election must be made by applicant in replying to this Office action. Claims 8-12 and 17-21 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Information Disclosure Statement

6. The information disclosure statement filed 7/23/2003 has been placed in the application file and the information referred to therein has been considered as to the merits.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 1-3, 5-6 and 13-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lockhart et al. (6,944,776) in view of Haukka et al. (2004/0043756).

a) As to claim 1, Lockhart discloses a method for initiating delivery of a digital rights management (DRM) encoded content item over a digital network between a client and a target server (see Lockhart, col. 1, lines 15-18), said method comprising the steps of: said client identifying a link to said target server for accessing said DRM encoded content item (i.e. consumer links to a specific offer page while browsing a vendor's web site, see Lockhart, col. 16, lines 48-50); said client initiating a network session with said target server (e.g. content providers, content packagers or web retailers are collectively referred to sponsors, see Lockhart, col. 35, lines 26-30) (i.e. using the offer URL, consumer establishes network session with the sponsor, see Lockhart, Fig. 7); said client sending an offer message to said target server containing

Art Unit: 2137

a supported DRM method (i.e. in the message of request offer protocol, the consumer includes an "offer ID" identifying the particular permit desired, see Lockhart, col. 20, lines 35-37, permits are generated according to a DRM architecture, each DRM architecture system provide tools for packaging content, generating permits, distributing permits to consumers, and using the permits to provide access to the content, see Lockhart, col. 6, lines 43-45, 51-53. To package the content, the content packager must obtain a "permit class" from the DRM system that governs access to the content, using the permit class, a packager is able to create a container with protected content accessible only to a consumer with a permit associated with the permit class, see Lockhart, col. 7, lines 5-9 and each DRM architecture system has an associated process for generating permits and installing those permits at the consumer device, the consumer device identifying information, read from the consumer device, is used to generate a permit that is unique to the particular consumer device, see Lockhart, col. 7, lines 14-26, permit is DRM architecture specific, in other words, consumer offers the sponsors its supported DRM method); said target server sending an answer message to said client containing a corresponding list providing a network address of a DRM license server for each supported DRM method (i.e. web retailer provides consumer with a link (order continue URL) specifies an Internet from which consumer may download and install permit, see Lockhart, col. 30, lines 6-18); said client obtaining a DRM license using said network address listed for said selected DRM method (see Lockhart, col. 31, lines 14-16) and said target server delivering said DRM encoded content item to said client using said selected DRM method (col. 19, lines 54-60). The

fact that consumer accesses the protected content, it anticipates the consumer has selected a supported DRM method, otherwise the consumer may receive an error message. Lockhart discloses web retailers offer content packaged with different DRM architectures to consumers (see Lockhart, col. 9, lines 5-6), in other words, web retailers support multiple DRM methods, however Lockhart is silent on the capability of having the client sends an offer message to said target server containing a list of at least one supported DRM method. Haukka is relied on for the teaching of the client sends an offer message to said target server containing a list of at least one supported DRM method (i.e. the client sends a client list of supported security mechanisms to the server, the server sends back a server list with security mechanism and parameters supported by the server, and the client select a highest-preference security mechanism that the client and server have in common and turns on the selected security, see Haukka, paragraph 0028). It would have been obvious to one of ordinary skill in the art at the time of the invention to employ the use of having said client sends an offer message to said target server containing a list of at least one supported DRM method in the system of Lockhart, as Haukka teaches so as to have the supported DRM method negotiated and agreed upon by client and server.

b) As to claim 2, the combination of Lockhart and Haukka discloses the method of claim 1 wherein each said network address comprises a respective IP address and a respective port number for a respective DRM license server (i.e. Universal Resource Locator (URL) is provided for acquiring access rights, see Lockhart, col. 12, lines 14-17, URL contains the Internet address of the server machine

hosting the information, the port where the Web server software process can be found).

c) As to claim 3, the combination of Lockhart and Haukka discloses the method of claim 1 wherein said answer message further includes a network transport method for each said supported DRM method (i.e. HTTP is the network transport method specified for passing information between entities, see Lockhart, col. 19, lines 61-65).

d) As to claim 5, the combination of Lockhart and Haukka discloses the method of claim 1 wherein the offer message lists a plurality of DRM methods in order of preferred acceptance (i.e. the client sends a client list of supported security mechanisms to the server, the server sends back a server list with security mechanism and parameters supported by the server, and the client select a highest-preference security mechanism that the client and server have in common and turns on the selected security, it anticipates the list is in a preferred order, see Haukka, paragraph 0028)

e) As to claim 6, the combination of Lockhart and Haukka discloses the method of claim 5 wherein said selected DRM method is comprised of a DRM method supported by said target server that is listed earliest in said order of said offer message (i.e. the client sends a client list of supported security mechanisms to the server, the server sends back a server list with security mechanism and parameters supported by the server, and the client select a highest-preference security mechanism that the

Art Unit: 2137

client and server have in common and turns on the selected security, see Haukka, paragraph 0028)

f) As to claim 13, this claim is directed to a software implementation of the method of claim 1 and is rejected by a similar rationale applied against claim 1 above.

g) As to claim 14, this claim is directed to a software implementation of the method of claim 5 and is rejected by a similar rationale applied against claim 5 above.

h) As to claim 15, this claim is directed to a software implementation of the method of claim 6 and is rejected by a similar rationale applied against claim 6 above.

9. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lockhart et al. (6,944,776) in view of Haukka et al. (2004/0043756) and in view of Kokkinen (7,006,528).

The combination of Lockhart and Haukka discloses the claimed method for initiating delivery of a digital rights management encoded item over a digital network between a client and a target server, however they are silent on the capability of having the answer message comprising a zero value for each DRM method not supported by the target server. Kokkinen is relied on for the teaching of the answer message comprises a zero value for each DRM method not supported by the target server (i.e. in the response message, the code for signaling protocol support is set to zero value if the protocol is not supported, see Kokkinen, col. 5, lines 25-29). It would have been obvious to one of ordinary skill in the art at the time of the invention to employ the use of if the terminal unit does not support any of the protocols indicated by the central unit

having the answer message comprising a zero value for each DRM method not supported by the target server in the system of Lockhart and Haukka, as Kokkinen teaches, so as to mutually negotiate a call/connection control (CC) protocol used in the connection between entities (see Kokkinen, col. 1, lines 62-67).

10. Claims 7 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lockhart et al. (6,944,776) in view of Haukka et al. (2004/0043756) and in view of Blom et al. (2003/0131353).

a) As to claim 7, the combination of Lockhart and Haukka discloses the claimed method for initiating delivery of a digital rights management encoded item over a digital network between a client and a target server, however they are silent on the capability of having the offer message and the answer message exchanged using a session description protocol. Blom is relied on for the teaching of having the offer message and the answer message exchanged using a session description protocol (SDP) (i.e. SDP is used for communicating streaming media between server and client, see Blom, paragraph 0024). It is obvious to one of ordinary skill in the art at the time of the invention to employ the use of having the offer message and the answer message exchanged using a session description protocol in the system of Lockhart and Haukka, as Blom teaches, so as to provide a means for communicating downloaded content and DRM for streaming data (see Blom, paragraph 0006).


c) As to claim 16, this claim is directed to a software implementation of the method of claim 7 and is rejected by a similar rationale applied against claim 7 above.

Conclusion

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Minh Dieu Nguyen whose telephone number is 571-272-3873.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Emmanuel Moise can be reached on 571-272-3865. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

12. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


mdn
12/19/06